

Attorney Docket: 00099
U.S. Application No. 09/709,038 Examiner Neurauter Art Unit 2143
Notice of Appeal and Pre-Appeal Brief Request for Review in Response to July 6, 2007 Final Office Action

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PRE- APPEAL BRIEF REQUEST FOR REVIEW OCT 05 2007

In response to the final office action mailed July 6, 2007, the Assignee requests a Pre-Appeal Brief Review of the previously-identified application in view of the following remarks. No amendments are being filed with this request, and this request is being concurrently filed with a Notice of Appeal.

REMARKS

In the final office action, claims 1, 3-4, 6-12, 14, 16-19, 21-29, and 31-47 were rejected as being obvious over U.S. Patent 6,807,423 to Armstrong, *et al.* Claims 15 and 20 were rejected as being obvious over *Armstrong* in view of U.S. Patent 6,714,519 to Luzzetti *et al.*

The Assignee requests a panel review for the reasons stated below.

1. ***Armstrong* Does Not Teach or Suggest All the Features of the Independent Claims, so the § 103 (a) Rejection is Improper**

Claims 1, 3-4, 6-12, 14, 16-19, 21-29, and 31-47 cannot be obvious in view of *Armstrong*. All the independent claims recite features that are not taught or suggested by *Armstrong*. Independent claim 1, for example, recites "*exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile.*" Independent claim 1 is reproduced below, and independent claims 12, 24, 37, and 43 recite similar features.

1. A method for presenting presence information to a first user, comprising:

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storing a profile associated with a second user, the second user's profile assigned a random and unique code number, and the second user's profile requiring a password to access the profile;

exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile;

retrieving presence information of the a second user indicating the second user's presence at a plurality of contact devices; and

presenting the second user's presence information to the first user, the presence information indicating the second user's presence at the plurality of contact devices.

Examiner Neurauter interprets *Armstrong* as teaching "*exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile.*" This interpretation, however, is respectfully mistaken. *Armstrong* monitors the presence of a "watched party," and each "watched party" is given a unique identifier. See U.S. Patent 6,807,423 to *Armstrong, et al.* at column 6, lines 5-7. No where, however, does *Armstrong* teach or suggest that the watched party's profile code number and password are "exchang[ed] ... with the first user, thus allowing the first user to access the second user's profile." *Armstrong*, in other words, does not disclose any exchange of codes and passwords that allows access to another's profile. The Assignee cannot agree with Examiner Neurauter's interpretation of *Armstrong*, and hence this appeal.

Examiner Neurauter first cites column 6, lines 39-47. These passages describe a watching party's "contact request." *Id.* at column 6, lines 39-41. The contact request is sent to a "personal communications portal" or "PCP." *Id.* at column 6, line 41. See also *id.* at column 4, line 25 and lines 64-67. The watching party may send this request without knowing the watched party's contact details — that is, the watched party's unique identifier may be used. See *id.* at column 6, lines 44-47. So, even though each user in *Armstrong* is assigned a unique identifier, and this unique identifier may be shared with watching parties, *Armstrong's* unique identifier is not used to "access the [user's] profile," as recited in the claims. *Armstrong's* unique identifier, instead, is used to identify the user without revealing the user's contact address. As the Panel now realizes, these passages of *Armstrong* fail to teach or suggest "*exchanging the second user's*

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code number and password with the first user, thus allowing the first user to access the second user's profile," as recited in the independent claims.

Examiner Neurauter next cites column 8, line 46 through column 9, line 63. These passages of *Armstrong* discuss aggregates, or groups, of watched/watching parties. Several watched parties, for example, may form "an aggregate" so that the watching party (or parties) may monitor the presence of the group. U.S. Patent 6,807,423 to Armstrong, *et al.* at column 8, lines 47-54. *Armstrong* explains that "aggregates" differ from prior art "buddy lists" in that "[a]ggregates are able to request actions on the aggregate's behalf." *Id.* at column 9, lines 8-11. Each aggregate may have an owner who controls the existence and membership, such that only the owner may modify or destroy the aggregate. *See id.* at column 9, lines 17-23. However, a rule within the PCP may also perform existence and membership functions. *See id.* at column 9, lines 23-26. Aggregates may be formed by an individual or by an application or service. *See* U.S. Patent 6,807,423 to Armstrong, *et al.* at column 9, lines 27-31. A conference call service, for example, may form an aggregate of all the conferees (*e.g.*, watched parties). *See id.* at column 9, lines 31-34. The conference call service monitors the status of the aggregate until a minimum number of members are available. *See id.* at column 9, lines 34-37. The conference call is then set up. *See id.* at column 9, lines 37-41. Each member of the aggregate may interact with the PCP, or a "quorum condition" may be used. *See* U.S. Patent 6,807,423 to Armstrong, *et al.* at column 9, lines 42-63. So, despite Examiner Neurauter's assertion, these passages of *Armstrong* fail to teach or suggest "*exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile,*" as recited in the independent claims. Again, even though each user in *Armstrong* is assigned a unique identifier, and this unique identifier may be shared with watching parties, *Armstrong's* unique identifier is not used to "*access the [user's] profile,*" and nor is the user's unique identifier "*exchang[ed]*" to permit access to profiles. *Armstrong's* unique identifier, instead, is used to identify the user without revealing the user's contact address to other members of the aggregate.

Armstrong, then, cannot obviate the independent claims. No where does *Armstrong* teach or suggest "*storing a profile ... [that is] assigned a random and unique code number, and the*

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second user's profile requiring a password to access the profile." The patent to Armstrong, *et al.* also fails to teach or suggest *"exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile."* As the above paragraphs and citations make clear, Examiner Neurauter's interpretation of Armstrong is not supported by the evidence. Because Armstrong is silent to *"exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile,"* one of ordinary skill in the art would not think that independent claims 1, 12, 24, 37, and 43 are obvious. The dependent claims incorporate these same features and recite additional features. Claims 1, 3-4, 6-12, 14, 16-19, 21-29, and 31-47, then, cannot be obvious in view of Armstrong, so the Panel is respectfully requested to remove the § 103 (a) rejection of these claims.

2. Examiner Neurauter's "Official Notice" is Insufficient for the § 103 (a) Rejection

Examiner Neurauter's "Official Notice" is not sufficient to obviate the claims. In the July 6, 2007 Final Office Action, Examiner Neurauter next admits that Armstrong does not "expressly disclose" *"exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile."* Examiner Neurauter, Final Office Action mailed July 6, 2007, at page 4, lines 3-5. Examiner Neurauter then "takes Official Notice that password protection of a user's account for the purposes of preventing unauthorized access" was known. *Id.* at page 4, lines 11-16. Whether or not this "Official Notice" is correct, this assertion cannot obviate the claimed features. Even if password protection was known, this assertion cannot obviate *"exchanging the second user's code number and password with the first user, thus allowing the first user to access the second user's profile."* Simply asserting that password protection was known cannot obviate an "exchange" of passwords that allows access to profiles.

Examiner Neurauter's "Official Notice," then, is not sufficient. Even when Examiner Neurauter's "Official Notice" of password protection is combined with the teachings of Armstrong, this combined teaching cannot obviate *"exchanging the second user's code number*

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and password with the first user, thus allowing the first user to access the second user's profile."

As the above paragraphs explained, and as Examiner Neurauter admits, *Armstrong* is silent to these features. Examiner Neurauter's "Official Notice" of password protection does not logically cure *Armstrong*'s deficiencies. Password protection cannot obviate an "exchange" of passwords that allows access to profiles. Because Examiner Neurauter's "Official Notice" cannot logically cure *Armstrong*'s deficiencies, the Panel is respectfully requested to remove the § 103 (a) rejection of claims 1, 3-4, 6-12, 14, 16-19, 21-29, and 31-47.

3. *Armstrong & Luzetti Cannot Obviate Claims 15 & 20*

Claims 15 and 20 cannot be obvious over *Armstrong* in view of U.S. Patent 6,714,519 to Luzzetti *et al.* Claims 15 and 20 depend from independent claim 12 and, thus, incorporate the same distinguishing features. As the above paragraphs explained, *Armstrong*, even when coupled with Examiner Neurauter's "Official Notice," cannot logically obviate "*the recipient's profile assigned a random and unique code number, and the recipient's profile requiring a password to access the profile, the processor exchanging the recipient's code number and password with the sender, thus allowing the sender to access the recipient's profile,*" as recited by independent claim 12.

Luzetti cannot cure these deficiencies. The patent to Luzzetti, *et al.* discloses an "availability mode manager agent" that indicates a presence and/or an availability of a contact list. U.S. Patent 6,714,519 to Luzzetti *et al.* (Mar. 30, 2004) at column 4, lines 13-21 and at column 4, lines 55-67. Again, though, no where does *Luzetti* disclose or suggest "*storing a profile associated with the recipient, the recipient's profile assigned a random and unique code number, and the recipient's profile requiring a password to access the profile.*" The patent to Luzzetti, *et al.* also fails to disclose or suggest "*exchanging the recipient's code number and password with the sender, thus allowing the sender to access the recipient's profile.*" *Armstrong*, then, even when combined with *Luzetti* and with Examiner Neurauter's "Official Notice," cannot logically obviate independent claim 12, from which claims 15 and 20 depend. the Panel is respectfully requested to remove the § 103 (a) rejection of claims 15 and 20.